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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/510,950

10/28/2004

Katsumi Nagayoshi

P26180

8841

7055 7590 03/14/2007  
GREENBLUM & BERNSTEIN, P.L.C.  
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EXAMINER

TRA, TUYEN Q

ART UNIT

PAPER NUMBER

2873

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
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3 MONTHS

03/14/2007

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 03/14/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com  
pto@gbpatent.com

**Office Action Summary**

Application No.

10/510,950

Applicant(s)

NAGAYOSHI, KATSUMI

Examiner

Tuyen Q. Tra

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 January 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner:  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>0105</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Oath/Declaration*

1. The declaration filed 10/28/2004 is acceptable.

### *Drawings*

2. The drawings filed on 10/28/2004 in this application are acceptable.

### *Information Disclosure Statement*

3. The information disclosure statement (IDS) submitted on 01/28/2005 is being considered by the examiner.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Moreno (U.S. Pat. 5,835,188 A).

- a) With respect to claim 1, Moreno discloses the irritation generators (figure 2, item L1, L2...L10 are alternatively turned on) are activated one by one to have the user turn his line of vision toward an irritating position, so that the user can train his eye muscles without actually viewing any target object with the eyes being opened (column 2, lines 46-67).

*This relates to a device to be located in front of a person eyes containing a plurality of light sources disposed and mounted near the edge, and on the concave side of a dish shaped wall. The position of said dish shaped wall relative to the user eyes and visual axis is adjustable by means adjustable forehead and chin supports. Each individual light source is sequentially turned on and off. When one light source turns off the following*

*light source turns on immediately or after a predetermined time delay. The sequence may be clockwise, counterclockwise, zig-zag, random or any desired pattern. The person using this invention must move his eyes to focus them on the light source that turns on sequentially.*

**Claim Rejections - 35 USC § 103**

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moreno (U.S. Pat. 5,835,188 A) as applied to claim 1 above.

Moreno discloses the irritation generators (figure 2, item L1, L2...L10 are alternatively turned on) are activated one by one to have the user turn his line of vision toward an irritating position, so that the user can train his eye muscles without actually viewing any target object with the eyes being opened (column 2, lines 46-67). However, Moreno does not implicitly disclose that (light) generator (L1, L2, ...L10) is a pressure generator, vibration generator, heater or weak-current generator.

Since light generator, pressure generator, vibration generator, heater or weak-current generator functions as a generator device for stimulating eyes muscle, the selection of a pressure generator, vibration generator, heater or weak-current generator in place of light generator is as design experience upon the environment of use to ensure optimum performance. Therefore, it would have

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been obvious at the time the invention was made to a person having skill in the art to replace a light generating in optical system with a pressure generator, vibration generator, heater or weak-current generator for purpose of varying ways of stimulating eye muscle.

**Conclusion**

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuyen Q. Tra whose telephone number is 571-272-2343. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky L. Mack can be reached on 571-272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TT

February 26, 2007

DAVID SPECTOR  
PRIMARY EXAMINER

*DN. ST*  
3/05/07